DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m., on Monday, April 19, 2004; 8:30 a.m. to 5:30 p.m., on Tuesday, April 20, 2004; and from 8 a.m. to noon, on Wednesday, April 21, 2004.

ADDRESSES: The meeting will be held at the U.S. Department of Labor, Room numbers C5515 1A and 1B, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address:*TSCA-Hotline@epa.gov*.

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and amendments section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2004–0076. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at EPA's Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. EPA's Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. EPA's Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA's Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for June 14–16, 2004.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: March 9, 2004.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E4–621 Filed 3–17–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL DEPOSIT INSURANCE CORPORATION

Intra-Agency Appeal Process: Guidelines for Appeals of Material Supervisory Determinations and Guidelines for Appeals of Deposit Insurance Assessment Determinations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') proposes to revise its Guidelines for Appeals of Material Supervisory Determinations; these revisions are intended to enhance the Supervision Appeals Review Committee (''SARC'') process by reconstituting the SARC and modifying the procedures for appeals to the SARC. The FDIC also proposes to issue Guidelines for Appeals of Deposit Insurance Assessment Determinations, which will reconstitute the Assessment Appeals Committee (''AAC''), and will also set forth procedures for pursuing appeals to the AAC. These changes are intended to benefit insured institutions seeking review of material supervisory determinations and assessment determinations.

DATES: Comments must be submitted on or before April 19, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- E-mail: *comments@FDIC.gov.* Include ''SARC/AAC Guidelines'' in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal

ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• Hand Delivery/Courier: Comments may be hand-delivered to the guard station located at the rear of the FDIC's 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and use the title ''SARC/AAC Guidelines''. The FDIC may post comments on its Internet site at: *http://www.fdic.gov/regulations/laws/federal/propose.html.*

Docket: For access to the docket to read background documents or comments received, go to the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONCERNING THE SARC GUIDELINES CONTACT: Lisa K. Roy, Associate Director, Division of Supervision and Consumer Protection, (202) 898–3764; Christopher Bellotto, Counsel, Legal Division, (202) 898–3801, Federal Deposit Insurance Corporation, 550 17th St., NW., Washington, DC 20429.

FOR FURTHER INFORMATION CONCERNING THE AAC GUIDELINES CONTACT: William V. Farrell, Chief, Assessment Management Section, Division of Finance, (202) 416–7156; Diane Ellis, Associate Director, Division of Insurance and Research, (202) 898–8978; Lisa K. Roy, Associate Director, Division of Supervision and Consumer Protection, (202) 898–3764; Christopher Bellotto, Counsel, (202) 898–3801, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC is publishing for notice and comment proposed revisions to the Guidelines for Appeals of Material Supervisory Determinations as well as proposed Guidelines for Appeals of Deposit Insurance Assessment Determinations. The FDIC considers it desirable in this instance to garner comments regarding these guidelines, although notice and comment rulemaking may not be employed in making future amendments.

The proposed revised Guidelines for Appeals of Material Supervisory Determinations would be effective upon adoption and would supersede the FDIC's current Guidelines for Appeals of Material Supervisory Determinations that were adopted by the FDIC's Board of Directors on March 21, 1995. The proposed guidelines would incorporate changes to the composition of the SARC, reducing it from five to three voting members, and would make changes to the existing procedures governing SARC appeals. These amendments include new rules under which the FDIC's Division of Supervision and Consumer Protection (''DSC'') would issue written decisions if it denies requests for review of material supervisory determinations; if dissatisfied with the division's determination, institutions would decide for themselves whether to appeal to the SARC; and SARC decisions would be published, with exempt material redacted. The types of determinations that are eligible for review by the SARC and the standards by which such appeals are decided would remain unchanged.

The AAC provides for FDIC appellate review of assessment payment computation and assessment risk classification determinations. The proposed Guidelines for Appeals of Deposit Insurance Assessment Determinations will change the composition of the AAC, reducing it from seven to five voting members, and will set forth procedures to be followed by insured depository institutions that choose to appeal adverse assessment determinations they have received from the appropriate FDIC division. As with the SARC, AAC decisions would be published, with exempt material redacted. The types of determinations that are eligible for review by the AAC and the standards by which such appeals are decided would remain unchanged.

The FDIC has sought to conform the SARC and AAC structures and procedures to the extent appropriate, making both processes easier for institutions to navigate and the FDIC to administer.

I. Proposed Revised Guidelines for Appeals of Material Supervisory Determinations

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Public Law 103–325, 108 Stat. 2160) (''Riegle Act'') required the FDIC (as well as the other Federal banking agencies and the National Credit Union Administration Board) to establish an independent intra-agency appellate process to review material supervisory determinations. On March 21, 1995, the FDIC's Board of Directors adopted Guidelines for Appeals of Material Supervisory Determinations, which established and set forth procedures governing the SARC, whose purpose was to consider and decide appeals of material supervisory determinations as required by the Riegle Act.

A. Membership

As set forth in the original guidelines, the SARC consisted of the FDIC Vice Chairperson (as chair of the SARC), the Director of the Division of Supervision (''DOS''), the Director of the Division of Compliance and Consumer Affairs (''DCA''), the Ombudsman, and the General Counsel (or their designees).

The SARC guidelines were amended to add the Director of the Division of Insurance (now the Director of the Division of Insurance and Research (''DIR'')) as a voting SARC member, to provide formally that the Directors of DOS and DCA (now the DSC Director) would not vote on cases brought before the SARC by their respective (now consolidated) divisions, to provide that designees would be limited to the most senior members of a SARC member's staff, and to include Truth-in-Lending (Regulation Z) restitution. In addition, the SARC was expressly authorized to consider appeals of denied filings as set forth in 12 CFR 303.11(f) for which a Request for Reconsideration has been granted, other than denials of a change in bank control, change in senior executive officer or board of directors, or denial of an application pursuant to section 19 of the Federal Deposit Insurance Act (''FDI Act'') (which are contained in 12 CFR 308, subparts D, L, and M, respectively), if the filing was originally denied by the Director, Deputy Director or Associate Director of DSC.

While the current guidelines satisfy the Riegle Act's requirement to establish an independent appellate process for the review of material supervisory determinations, the proposed changes, based on eight years' experience since approval of the original 1995 guidelines, should serve to facilitate the disposition of SARC appeals and further underscore the perception of the SARC as a fair and independent high-level body for review of material supervisory determinations within the FDIC.

The FDIC is proposing to modify its guidelines and change the composition of the SARC so that division directors and the Ombudsman no longer serve on the SARC, and new SARC members are drawn from the most senior levels of the Corporation. The Director of the DSC, who is responsible for the operations of two former divisions (DOS and DCA) and who represents the division that made the material supervisory determination under review, the Director of DIR, as well as the Ombudsman, would no longer be SARC members. As revised, the SARC membership would consist of three (3) voting members: (1) One FDIC Board

member, either the Chairperson, the Vice Chairperson, or the Director (Appointive), as designated by the FDIC Chairperson (this person would serve as the Chairperson of the SARC); (2) and (3) one deputy to each of the FDIC Board members who are not designated as the SARC Chairperson. The General Counsel would be the fourth, and non-voting, member of the SARC. The FDIC Chairperson would designate alternate member(s) to the SARC if vacancies occur so long as the alternate member was not directly or indirectly involved in making or affirming the material supervisory determination under review. In addition, a member of the SARC could designate and authorize the most senior member of his or her staff—within the substantive area—to act on his or her behalf in SARC matters.

The DSC Director would retain the delegated authority formerly granted, respectively to the DOS and DCA Directors under the current SARC guidelines, to grant requests for review of material supervisory determinations in favor of banks dissatisfied with a decision made by their respective divisions.

The current guidelines preclude the Ombudsman from considering the merits of any material supervisory determination for which an appeal had been initiated or a final decision made by the SARC, other than in the Ombudsman's role as a SARC member. Under the proposed guidelines, the subject matter of a material supervisory determination that has been appealed to the SARC or that has been resolved in a final SARC decision is similarly ineligible for consideration by the Ombudsman. Any other problems, however, that an institution may have in dealing with the FDIC are eligible for consideration by the Ombudsman.

B. Appeal

Under the current SARC guidelines, if the Director of DSC determines not to grant a request for review of a material supervisory determination, no written determination is issued. Instead, the Director must forward that request directly to the SARC for its appellate determination. In this sense, the institution's request for review is also its appeal to the SARC, if the DSC Director does not grant the request. This process of automatic appeal to the SARC differs from the AAC process, under which an institution must file an appeal to the AAC if it wishes to obtain further review of a determination received at the division level.

Under the proposed SARC guidelines, an automatic appeal to the SARC is eliminated. Instead, institutions that wish to obtain SARC review of material supervisory determinations would be required to file an appeal—within 30 calendar days from the date of the division director's written determination—to the SARC. The FDIC believes that this procedural change will benefit both institutions seeking review of material supervisory determinations and the FDIC. Unlike the present process, institutions would receive a written determination issued by DSC within 30 days, setting forth the reasons for the division's denial. Based on DSC's determination, institutions could then decide for themselves whether to appeal to the SARC. Institutions may, for example, decide that the issue presented is not one that merits expending the time or effort of seeking a SARC determination. The SARC could also benefit from a diminished caseload since not every institution that receives a denial at the division level may choose to file a SARC appeal. Finally, the appeal requirement for SARC will bring that process closer in line with the AAC process, making both easier for institutions to navigate and the FDIC to administer.

An appeal to the SARC would be considered filed if received by the FDIC within 30 calendar days from the date of the determination being appealed or if placed in the United States mail within 30 calendar days from the date of that determination. Institutions would include their name and address, the name and address of any representative, a copy of the determination being appealed, and all of the reasons, factual or legal, why the institution disagrees with the DSC Director's determination. FDIC staff would analyze the filing for the SARC. Any FDIC staff analysis would be considered part of the intra-agency deliberative process and would not be disclosed to insured institutions. The decision of the SARC would be provided to the institution and would set forth the rationale for the agency's determination.

The original SARC guidelines permitted the institution to request an appearance before the SARC to present evidence or otherwise support its position, which the SARC may allow in its discretion. Under the proposed guidelines, the SARC would have the discretion, whether or not a request is made, to determine to allow an oral presentation. If an institution wishes to make an oral presentation, it should include in its appeal a statement to that effect. Oral presentations would generally be granted only if the SARC determines in its discretion that the oral presentation would be helpful or would otherwise be in the public interest. At the oral presentation, the institution would present its position and respond to any questions the SARC might have. The SARC could also require that FDIC staff participate in the oral presentation as the SARC deems appropriate.

Only matters previously reviewed at the division level, resulting either in a written determination or direct referral to the SARC, could be appealed to the SARC. Submission of new evidence not presented at the division level would be prohibited unless authorized by the SARC Chairperson. No discovery or other such rights would be created in the SARC process.

C. Other Provisions

The current guidelines also provide that while SARC decisions constitute the final supervisory determination of the FDIC, the SARC can reconsider its decision if new information is presented and good cause is shown why that information is material to the dispute. In practice, however, such new information has never been presented to the SARC, and therefore the FDIC proposes to eliminate this reconsideration provision. In doing so, the FDIC notes that both the SARC and the AAC have implicit authority to correct errors or omissions that may have occurred in the administrative process and to revise final decisions as necessary.

The types of determinations that are eligible for review by the SARC and the standards by which SARC appeals are decided remain unchanged.

II. Proposed Guidelines for Appeals of Deposit Insurance Assessment Determinations

The FDIC Board of Directors created the AAC in 1999 to provide a high-level process for considering all deposit insurance assessment appeals brought from determinations made by the appropriate FDIC Divisions. Responsibility for deposit insurance assessments is shared by the Division of Finance (''DOF''), DIR and, in some respects, DSC. DOF is responsible for calculating the assessments owed by individual insured institutions based on assessment risk classifications assigned by DIR, which in turn uses supervisory information provided by DSC. To calculate an institution's assessment, DOF applies the assessment rate that corresponds to the institution's assessment risk classification to that institution's assessment base. DOF determines the assessment base from deposit and other data submitted in the institution's Report of Condition or Thrift Financial Report. An insured

institution may request revision of its quarterly assessment payment by following the procedures set forth at 12 CFR 327.3(h); similarly, an insured institution may request review of its assessment risk classification by following the procedures set forth at 12 CFR 327.4(d). Having complied with those procedures and received a determination from the appropriate division, an institution dissatisfied with that division's determination may file an appeal with the AAC. After reviewing the determination made at the division level, the AAC will issue a final determination.

A. Membership

As presently constituted, the AAC membership consists of the Vice Chairperson of the Board (as Chairperson of the AAC), the Deputy to the Office of the Comptroller of the Currency's (''OCC'') member on the FDIC's Board of Directors, the Deputy to the Office of Thrift Supervision's (''OTS'') member on the FDIC's Board of Directors; the General Counsel, the Director of the Division of Supervision and Consumer Protection; the Deputy to the Chairperson and Chief Financial Officer or the DOF Director; and the DIR Director. Any member may designate the most senior members of his or her staff to act in the member's stead. If a member's division made the determination that is subject to appeal, that member or designee does not vote with respect to that appeal.

Since its creation in 1999, the AAC membership has included individuals who are knowledgeable and experienced in matters related to the FDIC's assessment activities, bringing to the AAC the necessary experience and judgment to make well-informed decisions concerning determinations on appeal. The FDIC believes that the long-range interests of both the agency and the institutions it insures are best served by assuring that all assessment determinations are as fair and accurate as possible, both in practice and in perception.

The FDIC is now proposing to modify the composition of the AAC by eliminating the division directors and drawing new members from the most senior levels of the Corporation. As revised, the AAC would consist of five (5) voting members: (1) One FDIC Board member, either the Vice Chairperson or the Director (Appointive), as designated by the FDIC Chairperson (this person would serve as Chairperson of the AAC); (2) a deputy to the FDIC Chairperson, to be designated by the FDIC Chairperson; (3) a deputy to the OCC member on the FDIC's Board of Directors; (4) a deputy to the OTS member on the FDIC's Board of Directors; and (5) a deputy to either the Vice Chairperson or the FDIC Director (Appointive), whoever is not the AAC Chairperson. The General Counsel would be the sixth, and non-voting, member of the AAC. The FDIC Chairperson would designate alternate member(s) to the AAC if vacancies occur so long as the alternate member was not directly or indirectly involved in making or affirming the determination under review. A member of the AAC could designate and authorize the most senior member of his or her staff within the substantive area to act on his or her behalf in AAC matters.

The proposed changes, which would eliminate division directors as AAC members, should serve to underscore the perception of the AAC as a fair and independent high-level body for review of assessment disputes.

B. AAC Proceedings

Under the FDIC's assessment regulations, institutions that dispute the computation of their quarterly assessment payments must comply with the filing requirements set forth at 12 CFR 327.3(h) and institutions that dispute their risk classification must comply with the filing requirements set forth at 12 CFR 327.4(d).

Current § 327.3(h) provides that an institution may request revision of the computation of its quarterly assessment payment and sets out the procedures for doing so. Any such request must be made within 60 days of the quarterly assessment invoice for which a revision is requested, or within 60 days of detection of an error in the institution's quarterly Call Report and must include any supporting documentation. Assessment audit and assessment refund determinations are also subject to review under section 327.3(h), although not expressly mentioned in the rule. Any additional information requested by the FDIC must be provided within 21 days. Section 327.3(h) mandates that the FDIC respond within 60 days and provides that the response should include the FDIC's determination wherever feasible; otherwise, the FDIC's determination—rendered by the Chief Financial Officer or designee (usually DOF)—is to be made as promptly as possible.

Under current § 327.4(d), an institution may request review of its assessment risk classification within 90 days from the date it receives notice of that classification by the FDIC. Supporting documentation must be included with the request. Any additional information requested by the FDIC must be provided within 21 days. The FDIC—through the appropriate division—either DIR or DSC—must promptly notify the institution of its determination.

An insured depository institution that is dissatisfied with the determination made by the appropriate division pursuant to 12 CFR 327.3(h) or 327.4(d) may appeal that determination to the AAC. The AAC will review the determination being appealed and, unless the AAC determines to refer the matter to the FDIC Board of Directors for consideration, render a final determination which will constitute final agency action. FDIC staff would analyze the filing for the AAC. Any FDIC staff analysis would be considered part of the intra-agency deliberative process and would not be disclosed to insured institutions. The decision of the AAC would be provided to the institution and would set forth the rationale for the agency's determination.

As with the SARC, the AAC would have the discretion, whether or not a request is made, to determine to allow an oral presentation. The institution's appeal should contain a statement regarding whether it wishes to make an oral presentation. Oral presentations would generally be granted only if the AAC determines in its discretion that oral presentation would be helpful or would otherwise be in the public interest. At the oral presentation, the institution would present its position and respond to any questions the AAC might have. The AAC could also require that FDIC staff participate as the AAC deems appropriate.

Only matters previously reviewed at the division level would be subject to AAC review. Submission of new evidence not presented at the division level would be prohibited unless authorized by the AAC Chairperson. No discovery or other such rights would be created in the AAC process.

Like the SARC, the AAC has implicit authority to correct errors that may have occurred in the administrative process and to revise final decisions as necessary.

For the aforementioned reasons, the FDIC Board of Directors proposes the Guidelines for Appeals of Material Supervisory Determinations be revised as set forth below. The Board's proposed Guidelines for Appeals of Deposit Insurance Assessment Determinations immediately follow the proposed revisions to the Guidelines for Appeals of Material Supervisory Determinations.

* * * * *

Proposed Revised Guidelines for Appeals of Material Supervisory Determinations

A. Introduction

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Public Law 103–325, 108 Stat. 2160) (''Riegle Act'') required the Federal Deposit Insurance Corporation (''FDIC'') to establish an independent intra-agency appellate process to review material supervisory determinations made at insured depository institutions that it supervises. The FDIC adopted its Guidelines for Appeals of Material Supervisory Determinations (''guidelines'') in 1995 and now proposes to revise them. The guidelines describe the types of determinations that are eligible for review and the process by which appeals will be considered and decided. The procedures set forth in these guidelines establish an appeals process for the review of material supervisory determinations by the Supervision Appeals Review Committee (''SARC'').

B. SARC Membership

The following individuals comprise the three (3) voting members of the SARC: (1) One FDIC Board member, either the Chairperson, the Vice Chairperson, or the FDIC Director (Appointive), as designated by the FDIC Chairperson (this person would serve as the Chairperson of the SARC); (2) and (3) one deputy to each of the FDIC Board members who are not designated as the SARC Chairperson. The General Counsel is a non-voting member of the SARC. The FDIC Chairperson may designate alternate member(s) to the SARC if there are vacancies so long as the alternate member was not involved in making or affirming the material supervisory determination under review. A member of the SARC may designate and authorize the most senior member of his or her staff within the substantive area of responsibility related to cases before the SARC to act on his or her behalf.

C. Institutions Eligible To Appeal

The guidelines apply to the insured depository institutions that the FDIC supervises (*i.e.*, insured State nonmember banks (except District banks) and insured branches of foreign banks) and also to other insured depository institutions with respect to which the FDIC makes material supervisory determinations.

D. Determinations Subject To Appeal

An institution may appeal any material supervisory determination pursuant to the procedures set forth in these guidelines. Material supervisory determinations include:

(a) CAMELS ratings under the Uniform Financial Institutions Rating System;

(b) EDP ratings under the Uniform Interagency Rating System for Data Processing Operations;

(c) Trust ratings under the Uniform Interagency Trust Rating System;

(d) CRA ratings under the Revised Uniform Interagency Community Reinvestment Act Assessment Rating System;

(e) Consumer compliance ratings under the Uniform Interagency Consumer Compliance Rating System;

(f) Registered transfer agent examination ratings;

(g) Government securities dealer examination ratings;

(h) Municipal securities dealer examination ratings;

(i) Determinations relating to the adequacy of loan loss reserve provisions;

(j) Classifications of loans and other assets in dispute the amount of which, individually or in the aggregate, exceed 10 percent of an institution's total capital;

(k) Determinations relating to violations of a statute or regulation that may impact the capital, earnings, or operating flexibility of an institution, or otherwise affect the nature and level of supervisory oversight accorded an institution;

(l) Truth in Lending (Regulation Z) restitution;

(m) Filings made pursuant to 12 CFR 303.11(f), for which a Request for Reconsideration has been granted, other than denials of a change in bank control, change in senior executive officer or board of directors, or denial of an application pursuant to section 19 of the FDI Act (which are contained in 12 CFR 308, subparts D, L, and M, respectively), if the filing was originally denied by the DSC Director, Deputy Director or Associate Director; and

(n) Any other supervisory determination (unless otherwise not eligible for appeal) that may impact the capital, earnings, operating flexibility, or capital category for prompt corrective action purposes of an institution, or otherwise affect the nature and level of supervisory oversight accorded an institution.

Material supervisory determinations do not include:

(a) Decisions to appoint a conservator or receiver for an insured depository institution;

(b) Decisions to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act, 12 U.S.C. 1831o;

(c) Determinations for which other appeals procedures exist (such as determinations of deposit insurance assessment risk classifications and payment calculations);

(d) Decisions to initiate formal enforcement actions under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818 (including assessment of civil money penalties) or under any other provisions of law or regulation; and

(e) Decisions to initiate informal enforcement actions (such as memoranda of understanding).

The FDIC recognizes that, although determinations to take prompt corrective action or initiate formal or informal enforcement actions are not appealable, the determinations upon which such actions may be based (*e.g.*, loan classifications) are appealable provided they otherwise qualify.

E. Good Faith Resolution

An institution should make a good faith effort to resolve any dispute concerning a material supervisory determination with the on-site examiner and/or the appropriate Regional Office. The on-site examiner and the Regional Office will promptly respond to any concerns raised by an institution regarding a material supervisory determination. Informal resolution of disputes with the on-site examiner and/or the appropriate Regional Office is encouraged, but seeking such a resolution is not a condition to filing a request for review with the Division of Supervision and Consumer Protection or an appeal to the SARC under these guidelines.

F. Filing a Request for Review With the FDIC Division of Supervision and Consumer Protection

An institution may file a request for review of a material supervisory determination with the Director, Division of Supervision and Consumer Protection, 550 17th Street NW., Room F–4076, Washington, DC 20429, within 60 calendar days following the institution's receipt of a report of examination containing a material supervisory determination or other written communication of a material supervisory determination. A request for review must be in writing and must include:

(a) A detailed description of the issues in dispute, the surrounding circumstances, the institution's position regarding the dispute and any arguments to support that position (including citation of any relevant statute, regulation, policy statement or other authority), how resolution of the dispute would materially affect the institution, and whether a good faith effort was made to resolve the dispute with the on-site examiner and the Regional Office; and

(b) A statement that the institution's board of directors has considered the merits of the request and authorized that it be filed.

The Director, Division of Supervision and Consumer Protection, will issue a written determination of the request for review, setting forth the grounds for that determination, within 30 days of receipt of the request. No appeal to the SARC will be allowed unless an institution has first filed a request for review with the Division of Supervision and Consumer Protection.

G. Appeal to the SARC

An institution that does not agree with the written determination rendered by the Director of the Division of Supervision and Consumer Protection must appeal that determination to the SARC within 30 calendar days from the date of that determination. The Director's determination will inform the institution of the 30-day time period for filing with the SARC and will provide the mailing address for any appeal the institution may wish to file. Failure to file within the 30-day time limit may result in denial of the appeal by the SARC. If the Director of the Division of Supervision and Consumer Protection determines that an institution is entitled to relief that the Director lacks delegated authority to grant, the Director may, with the approval of the Chairperson of the SARC, transfer the matter directly to the SARC without issuing a determination.

H. Filing With the SARC

An appeal to the SARC will be considered filed if the written appeal is received by the FDIC within 30 calendar days from the date of the division director's written determination or if the written appeal is placed in the U.S. mail within that 30-day period. If the 30th day after the date of the division director's written determination is a Saturday, Sunday or Federal holiday, filing may be made on the next business day. The appeal should be sent to the address indicated on the determination being appealed.

I. Contents of Appeal

The appeal should be labeled to indicate that it is an appeal to the SARC and should contain the name, address, and telephone number of the institution and any representative, as well as a copy of the determination being appealed. Only matters previously reviewed at the division level, resulting in a written determination or direct referral to the SARC, may be appealed to the SARC. Evidence not presented at the division level may be submitted only if authorized by the SARC Chairperson. The institution should set forth all of the reasons, legal and factual, why it disagrees with the determination. Nothing in the SARC administrative process shall create any discovery or other such rights.

J. Burden of Proof

The burden of proof as to all matters at issue in the appeal, including timeliness of the appeal if timeliness is at issue, rests with the institution.

K. Oral Presentation

The SARC may, in its discretion, whether or not a request is made, determine to allow an oral presentation. The SARC generally grants a request for oral presentation only if it determines that oral presentation would be helpful or would otherwise be in the public interest. If oral presentation is held, the institution will be allowed to present its positions on the issues raised in the appeal and to respond to any questions from the SARC. The SARC may also require that FDIC staff participate as the SARC deems appropriate.

L. Dismissal and Withdrawal

An appeal may be dismissed by the SARC if it is not timely filed, if the basis for the appeal is not discernable from the appeal, or if the institution moves to withdraw the appeal.

M. Scope of Review and Decision

The SARC will review the appeal for consistency with the policies, practices and mission of the FDIC and the overall reasonableness of and the support offered for the positions advanced, and notify the institution, in writing, of its decision concerning the disputed material supervisory determination(s) within 60 days from the date the appeal is filed, or within 60 days from oral presentation, if held. SARC review will be limited to the facts and circumstances as they existed prior to or at the time the material supervisory determination was made, even if later discovered, and no consideration will be given to any facts or circumstances that occur or corrective action taken after the determination was made.

N. Publication of Decisions

SARC decisions will be published. Published SARC decisions will be redacted to avoid disclosure of exempt information. Published SARC decisions may be cited as precedent in appeals to the SARC.

O. SARC Guidelines Generally

Appeals to the SARC will be governed by these guidelines. The SARC will retain the discretion to waive any provision of the guidelines for good cause; the SARC may adopt supplemental rules governing SARC operations; the SARC may order that material be kept confidential; and the SARC may consolidate similar appeals.

P. Limitation on Agency Ombudsman

The subject matter of a material supervisory determination for which either an appeal to the SARC has been filed or a final SARC decision issued is not eligible for consideration by the Ombudsman.

Q. Coordination With State Regulatory Authorities

In the event that a material supervisory determination subject to a request for review is the joint product of the FDIC and a State regulatory authority, the Director, Division of Supervision and Consumer Protection, will promptly notify the appropriate State regulatory authority of the request, provide the regulatory authority with a copy of the institution's request for review and any other related materials, and solicit the regulatory authority's views regarding the merits of the request before making a determination. In the event that an appeal is subsequently filed with the SARC, the SARC will notify the institution and the State regulatory authority of its decision. Once the SARC has issued its determination, any other issues that may remain between the institution and the State authority will be left to those parties to resolve.

R. Effect on Supervisory or Enforcement Actions

The use of the procedures set forth in these guidelines by any institution will not affect, delay, or impede any formal or informal supervisory or enforcement action in progress or affect the FDIC's authority to take any supervisory or enforcement action against that institution.

S. Effect on Applications or Requests for Approval

Any application or request for approval made to the FDIC by an institution that has appealed a material supervisory determination which relates to or could affect the approval of the application or request will not be considered until a final decision concerning the appeal is made unless otherwise requested by the institution.

T. Prohibition on Examiner Retaliation

The FDIC has an experienced examination workforce and is proud of its professionalism and dedication. FDIC policy prohibits any retaliation, abuse, or retribution by an agency examiner or any FDIC personnel against an institution. Such behavior against an institution that appeals a material supervisory determination constitutes unprofessional conduct and will subject the examiner or other personnel to appropriate disciplinary or remedial action. Institutions that believe they have been retaliated against are encouraged to contact the Regional Director for the appropriate FDIC region. Any institution that believes or has any evidence that it has been subject to retaliation may file a complaint with the Director, Office of the Ombudsman, Federal Deposit Insurance Corporation, 550 17th Street, Washington, DC 20429, explaining the circumstances and the basis for such belief or evidence and requesting that the complaint be investigated and appropriate disciplinary or remedial action taken. The Office of the Ombudsman will work with the Division of Supervision and Consumer Protection to resolve the allegation of retaliation.

* * * * *

Proposed Guidelines for Appeals of Deposit Insurance Assessment Determinations

A. Introduction

The Assessment Appeals Committee (''AAC'') was formed in 1999 and, pursuant to the direction of the FDIC Board of Directors, has been functioning as the appellate entity responsible for making final determinations pursuant to part 327 of the FDIC's regulations regarding the assessment risk classification and the assessment payment calculation of insured depository institutions. The AAC provides a process for considering all deposit insurance assessment appeals brought from determinations made by the appropriate FDIC divisions. The procedures set forth in these guidelines apply to all appeals to the AAC.

B. AAC Membership

The following individuals comprise the five (5) voting members of the AAC, representing each member of the FDIC Board of Directors: (1) One FDIC Board member, either the Vice Chairperson or the Director (Appointive), as designated by the FDIC Chairperson (this person would serve as Chairperson of the AAC); (2) one of the deputies to the FDIC Chairperson, to be designated by the FDIC Chairperson; (3) a deputy to the Office of the Comptroller of the Currency's member on the FDIC's Board of Directors; (4) a deputy to the Office of the Office of Thrift Supervision's member on the FDIC's Board of Directors; and (5) a deputy to either the Vice Chairperson or the Director (Appointive), whoever is not the AAC Chairperson. The General Counsel is a non-voting member of the AAC. The FDIC Chairperson may designate alternative member(s) for the AAC if vacancies occur. A member of the AAC may designate and authorize the most senior member of his or her staff within the substantive area of responsibility related to cases before the AAC to act on his or her behalf.

C. Institutions Eligible to Appeal

These guidelines apply to all depository institutions insured by the FDIC.

D. Determinations Subject to Appeal

The AAC, upon appeal by an insured depository institution, reviews determinations of the Director of the Division of Insurance and Research or the Director of the Division of Supervision and Consumer Protection made pursuant to the procedures set forth at 12 CFR 327.4(d) regarding the assessment risk classification assigned by the FDIC to the institution and renders a final determination. The AAC also, upon appeal by an insured depository institution, reviews determinations made pursuant to 12 CFR 327.3(h) by the Chief Financial Officer (or the Director of the Division of Finance, as designee) regarding the computation of the institution's assessment payment and renders a final determination.

E. Appeal to the AAC

An institution that does not agree with the written determination rendered by the appropriate division director pursuant to 12 CFR 327.4(d) and 12 CFR 327.3(h) must appeal that determination to the AAC within 30 calendar days from the date of the determination. The division director's determination will inform the institution of the 30-day time limit for filing with the AAC and will provide the mailing address for any appeal the institution may wish to file. Failure to file within the 30-day time period may result in denial of the appeal by the AAC. If a division director determines that an institution is entitled to relief that the director lacks delegated authority to grant, the director may, with the approval of the Chairperson of the AAC, transfer the matter directly to the AAC without issuing a determination.

F. Filing With the AAC

An appeal to the AAC will be considered filed if the written appeal is received by the FDIC within 30 calendar days from the date of the division director's written determination or if the written appeal is placed in the U.S. mail within that 30-day period. If the 30th day after the date of the division director's written determination is a Saturday, Sunday or Federal holiday, filing may be made on the next business day. The appeal should be sent to the address indicated on the determination being appealed.

G. Contents of Appeal

The appeal should be labeled to indicate that it is an appeal to the AAC and should contain the name, address, and telephone number of the institution and any representative, as well as a copy of the determination being appealed. Only matters previously reviewed at the division level, resulting in either a written determination or a direct referral to the AAC, may be appealed to the AAC. Evidence not presented at the division level may be submitted only if authorized by the AAC Chairperson. The institution should set forth all of the reasons, legal and factual, why it disagrees with the determination. Nothing in the AAC administrative process shall create any discovery or other such rights.

H. Burden of Proof

The burden of proof as to all matters at issue in the appeal, including timeliness of the appeal if timeliness is at issue, rests with the institution.

I. Oral Presentation

The AAC may, in its discretion, whether or not a request is made, determine to allow an oral presentation. The AAC generally grants a request for oral presentation only if it determines that oral presentation would be helpful or would otherwise be in the public interest. If oral presentation is held, the institution will be allowed to present its position on the issues raised in the appeal and to respond to any questions from the AAC. The AAC may also

require that FDIC staff participate as the AAC deems appropriate.

J. Dismissal and Withdrawal

An appeal may be dismissed by the AAC if it is not timely filed, if the legal or factual basis for the appeal is not discernable from the appeal, or if the institution moves to withdraw the appeal.

K. Scope of Review and Decision

The AAC will review all submissions concerning an appeal, review the final determination being appealed, consider any other matters it deems in its discretion to be appropriate, and issue a written decision within 60 days from the date the appeal is filed, or within 60 days from oral presentation, if held.

L. Publication of Decisions

AAC decisions will be published. Published AAC decisions will be redacted to avoid disclosure of exempt information. Published decisions of the AAC may be cited as precedent in appeals to the AAC.

M. AAC Guidelines Generally

Appeals to the AAC will be governed by these guidelines. The AAC will retain the discretion to waive any provision of the guidelines for good cause; the AAC may adopt supplemental rules governing AAC operations; the AAC may order that material be kept confidential; and the AAC may consolidate similar appeals.

N. Effect on Deposit Insurance Assessment Payments

The use of the procedures set forth in these guidelines by an insured institution will not affect, delay, or impede the obligation of that institution to make timely payment of any deposit insurance assessment.

Dated at Washington, DC, this 10th day of March, 2004.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 04–6112 Filed 3–17–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, March 23, 2004, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, March 25, 2004, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and approval of minutes.
Draft Advisory Opinion 2004–06: Meetup, Inc. by counsel, Marc E. Elias and Brian G. Svoboda.
Legislative Recommendations 2004.
Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Robert Biersack, Acting Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 04–6194 Filed 3–16–04; 11:48 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 1, 2004.

A. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Christine V. Lake, Brookfield, Wisconsin; to acquire voting shares of Ridgestone Financial Services, Inc., Brookfield, Wisconsin, and thereby indirectly acquire voting shares of Ridgestone Bank, Brookfield, Wisconsin.

Board of Governors of the Federal Reserve System, March 12, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–6054 Filed 3–17–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 2004.

A. Federal Reserve Bank of New York (Jay Bernstein, Bank Supervision Officer) 33 Liberty Street, New York, New York 10045–0001:

1. Mariner's Bancorp, Edgewater, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Mariner's Bank, Edgewater, New Jersey.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90